

MONDAY, Feb. 3, 1840.

The Senate met pursuant to adjournment, and the proceedings of Friday last were read.

On motion of Mr. Mills, a bill to be entitled an act concerning partition of property, was re-committed to the Judiciary committee.

Mr. Berthelot gives notice that he will, on some future day, ask leave to introduce a bill to be entitled an act to repeal an act to amend an act to regulate the foreclosure of mortgages.

Mr. Duval asked and obtained leave to introduce a preamble and bill in relation to the Pensacola Bank, which was read.

Also, a resolution in relation to the division of the Territory, which was read, and made the order of to-day.

Mr. Mills offered the following resolution:

Resolved, That the Governor of the Territory be requested to procure from the President of the Convention lately held at St. Joseph, the original returns of votes given at the late election for Constitution, or No Constitution, and a report of the time when they were received, and a statement of what votes or polls were rejected in the estimate, if any, and why they were so rejected, and any other information concerning the same in his possession, to the end that the same may be published for the satisfaction of the people of Florida, and the Congress of the United States—which was read.

Mr. Hart, from the select committee to whom was referred so much of the Governor's Message as relates to the Constitution of Florida, and the division of the Territory, dissents from the views taken by the majority of the committee, and begs leave to submit the following report on the subject referred to, which was read, and with certain resolutions, 200 copies ordered to be printed.

REPORT.

The subject offered for the consideration of the committee, is certainly one of grave and serious import, calculated to exert a most vital influence over the destinies of Florida, and to effect its interests for the present, and through all future times, whilst the course urged by the majority, will embarrass, if not ultimately defeat the accomplishment of a great southern measure, prompted by a strictly southern policy.

It cannot be denied that the signs of the times, and the demonstrations of hostility to southern institutions, point out to us most emphatically, the necessity of arming for the coming contest, so that we may offer an effectual resistance to the evident disposition to encroach on our constitutional privileges. We can but do this by increasing the number of southern states. To carry out this expedient, it should be our first object to divide Florida, and urge the admission of the two territories into the Federal Union as two separate and independent States. This will give us four Senators, and for the present, two Representatives in Congress; and then we will present a more efficient force than can be done by any State having but two Senators and one Representative.

In reference to the Constitution recently framed at St. Joseph: and although it embraces many sound and wholesome doctrines, yet if we look to the votes of the people, we will see how nearly divided is public sentiment in reference to its adoption. If in fact it be adopted, the majority does not exceed twenty-one; unquestionably too small to force upon so large and respectable a minority a measure to which there has been manifested such determined hostility. But its adoption by the people is not admitted; and the evidence offered is not satisfactory: on the contrary, it is believed and contended, that if the votes should be fully and fairly cancelled, it would be found that the majority for its rejection will be considerable. Enough at least has been discovered to render it extremely doubtful, and we should hesitate to force an obnoxious measure upon an unwilling people.

In reference to a division of the Territory, it seems to be suggested by its practicability and expediency, and because it is a measure strongly promotive of southern policy, and tends to our own political good. Each of these territories is much larger than several of the states, and each capable of receiving and sustaining a much larger population. Their present union appears to be unnatural, and their geographical position will present a state of a most awkward shape, whilst a controversy and conflict of interests growing out of it, will forever destroy that harmony so essential to the prosperity of a political body.

This seems to have been the view taken of the Floridas by every other government which has had dominion over them. Originally as Spanish Provinces, they were separately governed, and independent of each other. In this way they were ceded by Spain to Great Britain in 1763. They continued separate provinces under that government; and when they were afterwards receded by Great Britain to Spain in 1783, no change was made; and which, by the treaty of cession in 1819, between Spain and the United States, they were ceded to the latter, they were ceded as separate territories, known as East and West Florida.

The Government of the United States seems to have regarded them in this light, for immediately after their cession, although Gen. Jackson, clothed with the authority of Capt. General of Cuba, was appointed to govern them, yet two separate offices, in the character of Lieut. Governor, were appointed to each of these provinces, and their present union was originally a measure only of temporary convenience.

To go now into the Union as one State, will be to surrender, for considerations of temporary political policy, an advantage whose importance will only be appreciated by the advocates of State Government, after it shall have become too late to retrace their steps. It is most manifest that the treaty does not contemplate the admission of the Floridas as one State, but in language that cannot be mistaken, it secures to the inhabitants of each of these Territories the right of admission as separate States, as soon as shall be consistent with the principles of the Federal Constitution.

Whenever mention is made of them in the Treaty, the plural number is used, and they are spoken of as "The Florida's," "The inhabitants of the Ceded Territories," &c. This view was taken by Hon. members of the Senate of the United States, when the subject of division and the Armed Occupation Bill was under discussion.

It was assumed without contradiction, that this right had been guaranteed to the citizens of the two territories. What is meant by the words in the treaty "as soon as shall be consistent with the principles of the Federal Constitution," all may not agree in their interpretation. By some it may be urged that they refer to the ratio of representation

as it now exists, and others, and not a few, will urge, with force and ability, that they refer to the ratio of representation, as it was when the territories were ceded. This last is the ground assumed by the committee of the Convention at St. Joseph, appointed to draft a memorial to the Congress of the United States, in relation to the admission of Florida as a State into the Federal Union. On the other hand, it might be insisted, that these words have reference to the ratio of representation, as it was at the time of the adoption of the Federal Constitution: and again, that they have no reference to any ratio of representation.

However, let it be admitted, and it cannot well be denied, that the treaty of cession has guaranteed *not* to the inhabitants of Florida, as *one province of Territory*, but to inhabitants of East and West Florida, as *separate Territories*, the right of admission into the Union as separate and independent States. Then if the argument that the present ratio of representation is not to be the governing rule, be true, there is no more to be found in the Federal Constitution against the admission of the two Territories, as two separate States, than in favor of their admission as one State.

The people of East Florida are not only opposed to going into a State Government as one State, believing it to be a measure opposed to southern interest and southern policy, and prejudicial to the particular interests of each section, but are decidedly opposed to going into a State Government at all at present.

The difficulties and embarrassments which they have had, and still have to struggle with—the ravages and misfortunes inflicted by a desolating war have destroyed their agriculture, and impoverished the people, so that their situation at this time is one rather to claim relief than to contribute to the heavy expenses of a State government.

They therefore regard the attempt to force them, against their wishes and their interests, into a State Government, as in the last degree, ungenerous, unjust and oppressive, and which they will, by every means in their power, resist.

Whilst these views are expressed in reference to the wishes and interests of the people of East Florida, a feeling of selfishness will not be permitted to embarrass the claims of the people of Middle and West Florida.

In these sections there appears to be manifested an intense anxiety for a State Government, so far as can be done without prejudice to themselves, the people of East Florida, will readily aid them in the measure.

If the views taken of the treaty guaranties be correct, and sustained as it is, by the opinion of able and talented men, then the people West of the Suwannee river, are more entitled to admission as a State into the Federal Union. They have a territory in extent larger than several of the old states, possessing commercial and agricultural rewards inviting a dense and thrifty population, and which is now sufficient to render their claims to admission consistent with the principles of the Federal Constitution. And under, and by virtue of the treaty guaranties they ought of right to be admitted immediately into the Federal Union.

It is therefore respectfully recommended, that a memorial be drafted and sent to the Senate and House of Representatives of the United States, urging the claim of the people West of the Suwannee river, to admission as a State into the Federal Union, and the erection of East Florida into a separate Territorial Government, making a prospective arrangement for the admission of the latter as soon as there shall be population sufficient to warrant it.

The following resolution is also respectfully submitted:
Resolved, by the Governor, the Senate, and the House of Representatives of the Legislative Council of the Territory of Florida, That our Delegate in Congress be, and he is hereby instructed to use his best efforts to procure the passage of a law for the immediate admission as a state into the Federal Union, of all that section of Florida lying west of the Suwannee river, and for the erection into a separate Territorial Government of all that portion lying east of said river, making a prospective arrangement for the admission of the latter as soon as there shall be sufficient population to warrant it.

The Senate received from the House the following bills as passed.

An act to increase the number of Senators, and to lay off the Territory into Senatorial Districts, was read a first and second time by its title, and referred to a select committee—Messrs. Berthelot, Hawkins and Wright were appointed said committee.

A bill to be entitled an act to amend the several acts in relation to slaves, free negroes and mulattoes, which was read a first and second time by its title, and referred to the committee on the Judiciary.

A bill to be entitled an act to repeal an act entitled an act in addition to the military laws now in force, approved March 4th, 1839, which was read a first and second time by its title, and referred to the committee on the State of the Territory.

Also, a preamble and resolution relative to certain diseases of horses in Florida, was read.

A bill to be entitled an act to legitimate the children of D. A. Northrop, and to change their names, was read a second time, and re-committed to the Judiciary committee.

An act to establish a board of Port Wardens and Commissioners of wrecks for the Port of Apalachicola, was read a third time and passed—ordered that the title be as above.

An act for the relief of George D. Fisher, was read and re-committed to the Judiciary committee.

An act for the relief of John Bryan, was read a second time.

The substitute reported by the Judiciary committee for said bill, was adopted.

On motion, the rule was waived, and said bill read a third time.

On the question of its passage the yeas and nays were called, by Messrs. Dupont and Hawkins, and were:

Yeas—Mr. President, Messrs. Bailey, Berthelot, Duval, English, Hart, Hawkins, Mills and Walker—9.

Nays—Messrs. Dupont and Wright—2.

So said bill passed, ordered that the title be as above.

The Senate went into committee of the whole, Mr. Hawkins in the chair, on a bill to be entitled "An act in relation to Auctioneers," after some time spent in its consideration, the com-

mittee rose and reported the bill as amended, which report was concurred in and said bill ordered to be engrossed for a third reading for to-morrow.

A bill to be entitled "An act to provide against the suspension of specie payment by the banks of this Territory," was read and laid on the table.

A bill to be entitled "An act to authorize John J. Clark to vend goods and merchandize as a pedlar free from tax," was read a third time and rejected.

A bill to be entitled "An act to authorize Edwin G. Booth to establish a ferry across the Apalachicola River below Ochesee," was read a third time, amended and passed, ordered that the title be as above,

The resolution offered by Mr. Duval on to-day, in relation to the appointment of a select committee to take into consideration the division of the Territory, was again read. On the question of its adoption, the yeas and nays were called by Messrs. Berthelot and Duval, and were

Yeas—Mr. President, Messrs. Bailey, Duval, Dupont, English, Hart, Hawkins and Mills—8.

Nays—Messrs. Berthelot, Walker and Wright—3.

So said resolution was adopted.

Messrs. Duval, English and Mills were appointed said joint committee on the part of the Senate.

Mr. Duval moved that the Senate act in nominations of the Governor, with open doors on the question of the adoption of said motion.

The yeas and Nays were called by Messrs. Bailey and Mills, and were,

Yeas—Mr. President, messrs. Duval, English and Walker—4.

Nays—messrs. Bailey, Berthelot, Dupont, Hart, Hawkins, Mills and Wright—7.

The Senate then went into secret session on Executive business.

On motion the door was opened, and

The Senate then adjourned till to-morrow, 11 o'clock.